

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Facilitating the Provision of Spectrum-Based)	WT Docket No. 02-381
Services to Rural Areas and Promoting)	
Opportunities for Rural Telephone Companies)	
To Provide Spectrum-Based Services)	
)	
2000 Biennial Regulatory Review)	WT Docket No. 01-14
Spectrum Aggregation Limits)	
For Commercial Mobile Radio Services)	
)	
Increasing Flexibility To Promote Access)	WT Docket No. 03-202
to and the Efficient and Intensive Use of Spectrum)	
and the Widespread Deployment of Wireless)	
Services, and To Facilitate Capital Formation)	

**REPLY COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA)¹ submits
these reply comments in response to the Commission's Notice of Proposed Rule Making

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

(NPRM) in the above-referenced docket.² These reply comments are limited in scope to responding to some of the inaccurate statements contained in the large carrier initial comments.

The large carriers responded to the “keep what you use” approach to spectrum licensing as was to be expected - they opposed it. While the arguments purport to focus on the best ways to ensure delivery of spectrum-based services to rural consumers, the arguments boil down to one key issue – money. Large carriers claim that implementation of a “keep what you use” re-licensing scheme could force carriers to alter their business plans to engage in uneconomic build-out to avoid “unserved” areas. Such a business scenario seems highly unlikely, as it would be economically irrational when carriers have the ability to obtain revenue through leasing, partitioning, or disaggregating that portion of their spectrum that is “uneconomic” for them to use themselves. In fact, it is difficult to imagine a motive for large carriers to currently retain unused spectrum other than pure financial speculation – the hope that the spectrum may increase in value over time. While large carriers should be permitted to hold onto their rural spectrum they intend to use and build out within a reasonable period of time, there is no compelling reason for rural consumers to suffer when other carriers are willing to put fallow spectrum to productive use.

² In the Matter of Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services, WT Docket No. 02-381, 2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services, WT Docket No. 01-14, Increasing Flexibility to Promote Access to and the Efficient and Intensive Use of Spectrum and the Widespread Deployment of Wireless Services, and to Facilitate Capital Formation, WT Docket No. 03-202, *Notice of Proposed Rulemaking*, (released Sept. 27, 2004. (NPRM)

NTCA feels that it must respond to T-Mobile's incorrect portrayal of NTCA's 2003 Wireless Survey. T-Mobile cites the survey results showing that access to spectrum is responding companies' third most frequently noted concern for the future.³ It is important to keep in mind that a non-trivial segment of the survey respondents – 23% in 2003, up to 28% in 2004,⁴ or more than one in four – made mention of their frustration in obtaining access to spectrum. Elsewhere, 44% of 2004 survey respondents indicated that they are using unlicensed spectrum to provide wireless service to their customers, despite the inherent difficulties (such as interference)⁵ associated with unlicensed spectrum. It is likely that a number of these respondents have become discouraged in trying to obtain licensed spectrum via conventional means, and have instead turned to unlicensed spectrum. And while licensed spectrum may still be these carriers' preferred means of providing wireless service (indeed, access to additional licensed spectrum is preferred by survey respondents over access to additional unlicensed spectrum by a 69% to 31% margin), unlicensed spectrum may be sufficiently satisfactory that other concerns surpass respondents' difficulty obtaining licensed spectrum.

Further, while obtaining financing for wireless projects – not survey respondents' most frequently cited concern for the future in 2004⁶ – may remain difficult, it is hardly

³ Comments of T-Mobile at 7-8.

⁴ NTCA released the results of its 2004 survey in January 2005, available at www.ntca.org.

⁵ 54% of 2004 survey respondents indicated that they have experienced difficulties with interference in their use of unlicensed spectrum.

⁶ In 2004, more respondents indicated that competition from national carriers was a concern for the future, than indicated that their ability to make the necessary investments was a concern.

the deal breaker that lack of access to licensed spectrum can be.⁷ The availability of financing fluctuates with market conditions each year.⁸ Also, there are multiple sources of available financing, and many different types of deals that can be arranged. Licensed spectrum, on the other hand, is only available from the FCC or other licensees. If the FCC does not reclaim unused spectrum and licensed carriers are unwilling to enter into a mutually beneficial arrangement that would allow for use of spectrum, the spectrum will continue to lay fallow and rural consumers will be left without service.

⁷ It is worth noting that NTCA asked respondents to state what their concerns were; there was no rating as to level of concern. Respondents were permitted to choose more than one answer. Survey results only measure how many respondents indicated that something is a concern.

⁸ This fluctuation is reflected in NTCA's survey results. How respondents rate the difficulty in obtaining financing varies from year to year.

A “keep what you use” approach to spectrum licensing will benefit the public. Large carriers will be forced to provide service, enter into an agreement with a party who will provide service, or let the FCC reclaim the spectrum and license it to someone else to provide service. In all scenarios, more spectrum-based services are made available and the public benefits.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in WT Docket No. 02-381, WT Docket No. 01-14, WT Docket No. 03-202, FCC 04-166, was served on this 14th day of February 2005 by first-class, U.S. Mail, postage prepaid, to the following persons.

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